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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,067	10/21/2003	Acacio Neimar de Oliveira	9117-90744	6658

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EXAMINER

FRANKLIN, RICHARD B

ART UNIT	PAPER NUMBER
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2181

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/690,067	Applicant(s) DE OLIVEIRA, ACACIO NEIMAR	
	Examiner Richard Franklin	Art Unit 2181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 – 8 have been examined.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:
 - Figure 1 is not described in detail the Specification.
 - Figure 3 is described as a "device" in the "Brief Description of the Drawings" and is referred to as a "process" in the "Detailed Description of Illustrated

Embodiments of the Invention.” A clear, consistent, and complete description of Figure 3 should be included in the Specification. Any current inconsistencies should be removed or amended.

Appropriate correction is required.

Claim Objections

4. Claim 6 is objected to because of the following informalities:
 - Claim 6 appears that it should have been worded as an independent claim, which claims an apparatus for performing the process of claim 1. Detail of the apparatus and its parts, as well as their functions should be given.

Appropriate correction is required.

Claim Rejections - 35 USC § 112, 1st Paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The addition of “exchanging portions of the stream of media data filing information between respective headsets of the continuously used plurality of headsets and respective sectors of a plurality of sectors of the hard drive” is not supported in the originally presented specification and is considered to be “New Matter.”

6. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification does not enable the simultaneous use of headsets at a same surface for transferring signals of information between the same surface and integrated drive electronics.

7. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification does not enable the use of a “simplified” device that simultaneously transfers information between the plurality of sectors and respective headsets of the plurality of headsets.

8. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification does not enable counting on a specific physical structure for the distribution of the signals of information on the sectors.

9. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitation "simultaneously exchanging at least a portion of the group of signals of data between each of a plurality of headsets and respective sectors of a plurality of sectors within the hard drive" of the newly added claim is not supported in the originally presented specification and is considered "New Matter."

Claim Rejections - 35 USC § 112, 2nd Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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10. Claims 1 – 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 1 recited the limitation "using a plurality of headsets of the hard drive under a specific standard." It is not clear what specific standard is used. The term "specific" does not set forth the metes and bounds of the claim.

12. Claim 1 recites the limitation "the physical structure of data distribution..." in lines 3 and 4 of the claim. There is insufficient antecedent basis for this limitation in the claim.

The Examiner has interpreted the limitation to recite "a physical structure of data distribution..."

13. Claim 1 recited the limitation "with the use of a specific device for this purpose." It is not clear what specific device is used. "A specific device" does not set forth the metes and bounds of the claim.

14. Claims 2 – 7 are rejected for depending on claim 1. Claim 1 recites the closed-type transitional phrase "consisting in." This means the process consists of what is listed in the claim and nothing more. Therefore, claims 2 – 7 are rejected in light of

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"consisting in" from claim 1. If the transitional phrase of claim 1 were changed to an open-type, dependent claims would make sense.

15. Claim 4 recites the limitation "characterized by the distribution..." in lines 1 and 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

The Examiner has interpreted the limitation to recite, "characterized by distributing..."

16. Claims 4 and 7 recite the limitation "the signals of information..." in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

The Examiner has interpreted the limitation to recite "the stream of media data filing information..."

17. The term "simplified" in claim 6 is a relative term which renders the claim indefinite. The term "simplified" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. By the use of the term "simplified," the device used is rendered indefinite.

18. Claim 7 recites the limitation "the fact of" on line 1 of the claim. There is insufficient antecedent basis for this limitation in the claim.

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19. Claim 7 recites "the fact of counting on." This limitation does not make sense in the context of a claim. "Counting on" is an abstract idea that is not definite and not appropriate in claim language.

20. Claim 7 recites "a specific physical structure" in line 2 of the claim. It is not clear what specific physical structure is used. The term "specific" does not set forth the metes and bounds of the claim.

21. Claim 7 recites the limitation "a specific physical structure" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim. It is unclear if the limitation is a new physical structure or refers to the physical structure of claim 1.

The Examiner has interpreted the limitation to refer to the physical structure recited in claim 1.

22. Claim 7 recites the limitation "for the distribution..." in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

The Examiner has interpreted the limitation to recite "for distributing..."

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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23. Claim 8 is rejected under 35 U.S.C. 101 because it describes a method that is not limited to tangible embodiments. The claim details manipulation of information in a hard drive, which lacks practical application because it can easily be constructed as an abstract idea as well as having no concrete or useful application/result.

To expedite a complete examination of the instant application, the claims rejected under 35 USC 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following rejections are made based on the examiner's best interpretation of the claims in light of the 35 USC 112 and 35 USC 101 rejections made above.

24. Claims 1 – 6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee US Patent No. 5,274,507 (hereinafter Lee).

As per claim 1, Lee teaches the simultaneous transfer of a stream of media data filing information in a hard drive, consisting in continuously using a plurality of headsets of the hard drive under a specific standard for the physical structure of data distribution,

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and exchanging portions of the of the stream of media data filing information between respective headsets of the plurality of head sets and respective sectors of a plurality of sectors of the hard drive, with the use of a specific device for this purpose, characterized by eliminating an idleness of the headsets during transfer of the media data filing information through the continuous use of each of the plurality of headsets (Figure 1, Col 3 Lines 5 – 21).

As per claim 2, Lee further teaches the simultaneous transfer of signals of information within a plurality of data filing surfaces of the hard drive (Col 3 Lines 5 – 9).

As per claim 3, Lee further teaches the simultaneous use of headsets in transferring data between the sectors and integrated drive electronics (Col 3 Lines 10 – 21).

As per claim 4, Lee further teaches the distribution of the signals of information on a non-sequential manner on the sectors (Col 3 Lines 5 – 9).

As per claim 5, Lee further teaches the simultaneous use of headsets at a same surface, for transferring signals of information between the same surface and an integrated drive electronics (Figure 2, Col 3 Lines 42 – 49).

As per claim 6, Lee further teaches the use of a simplified device (Figure 1 Item

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10) simultaneously transferring information between the plurality of sectors and respective headsets of the plurality of headsets (Figure 1, Col 3 Lines 5 – 21).

As per claim 8, Lee teaches transferring data within a hard drive comprising; providing a group of signals of data; and simultaneously exchanging at least a portion of the group of signals of data between each of a plurality of headsets and respective sectors of a plurality of sectors within the hard drive (Figure 1, Col 3 Lines 5 – 21).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

25. Claims 1 – 8 are rejected under 35 U.S.C. 102(d) as being barred by applicant's issued Brazil Patent No. BR0006612-5 A that was issued and published on 17 September 2002 to Acacio Neimar de Oliveira. Application for Brazilian Patent No. BR0006612-5 A was filed in Brazil on 29 December 2000 and patented on 17 September 2002. Since the Brazilian Application's filing date is more than twelve (12) months prior to the US Application filing date and it became a patent, the current application is barred by the Brazilian Patent.

Response to Arguments

26. Applicant's arguments with respect to claim 1 – 7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

27. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Franklin whose telephone number is (571) 272-0669. The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard Franklin
Patent Examiner
Art Unit 2181

Mano Padmanabhan
7/19/06

MANO PADMANABHAN
SUPERVISORY PATENT EXAMINER